

### REMARKS

Applicant respectfully requests reconsideration of the present application based on the foregoing amendments and the following remarks. Applicant herein amends claims 1, 52, 56 and 109. Claims 1-9, 11-64 and 66-114 will remain pending in the application upon entry of this Amendment,

#### *Order of Examination*

Applicant respectfully requests that the order of the examination of the present application, which is a continuation in part of co-pending parent application No. 10/342,671, filed on January 14, 2003, almost a year prior to the present application, be reversed so that subsequent Actions issuing on the parent application precede subsequent Actions on this application.

#### *Claim Rejections Under 35 U.S.C. § 102*

Claims 1-9, 11-12, 14-21, 30, 39-41, 43-44, 46-54, 56-64, 66-68, 70-77, 86-87, 96-98, 100-101, 103-111 and 113-114 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,956,525 to Minsky ("Minsky").<sup>1</sup> For reasons set forth more fully below, this rejection is respectfully traversed.

#### Amended Independent Claims 1, 52, 56 and 109 Patentably Define Over Minsky

Each of the rejected independent claims 1, 52, 56 and 109 has been amended to even further distinguish the claimed subject matter from Minsky, and in a manner which Applicant believes the Examiner has already considered allowable. For example, amended claim 1 requires that the claimed base pattern is "capable of accepting inspection marks and mark lines, the mark lines being in accordance with design and fit preferences of the customer and further indicating how the base pattern is connected with other base patterns, the base pattern further capable of being connected to the other base patterns to comprise a style of a type of the custom-made garment."

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<sup>1</sup> This listing of the claims from the Office Action appears inaccurate, because claims 8, 9, 63 and 64 are separately rejected under 35 U.S.C. § 103.

This additional subject matter is similar to subject matter in claim 17 of the co-pending parent application No. 10/342,671, which the Examiner has indicated as allowable. Specifically, the Examiner stated that "claim 17 is allowed because it specifically requires that the mark lines indicate how the base pattern is connected with other base patterns comprising the style of the type of the garment."

Minsky's body suit merely allows for tape measures (the alleged "mark lines") to be attached thereto, which tape measures only indicate the wearer's body measurements at certain predetermined circumferential locations around the body suit. These tape measures do not indicate how a base pattern is connected with other base patterns comprising a style of a type of the custom-made garment to be produced for the wearer. In fact, the connection of the alleged "base patterns" in Minsky's body suit is never changed, much less in a manner as indicated by the alleged "mark lines," as would be required by each of the amended independent claims.

In one example of the invention set forth in the present specification beginning at, for example, page 7, line 11, a base pattern can be a pattern piece of a try-on garment, the piece being (for a particular style of a pants type of garment, for example) a left front piece, a right front leg piece, etc. When a customer tries on the try-on garment, the associated base patterns are retrieved, and marks indicating the customer's fit and style preferences can be made on the base pattern by the tailor. The mark lines indicate how the base patterns are to be adjusted and connected together, and a sample garment indicating the customer's fit and style preferences can be produced on-site by the tailor by connecting together the associated base patterns. After the customer agrees with the fit and design, each individual base pattern can then be scanned and the mark lines can be readily identified and used to automatically produce custom-made garments for the customer, the custom-made garments being associated with the base patterns of the sample garment.

For at least these reasons, independent claims 1, 56 and 109 patentably define over Minsky and the § 102 rejection of these claims, together with claims 2-9, 11-12, 14-21, 30, 39-41, 43-44, 46-54, 57-64, 66-68, 70-77, 86-87, 96-98, 100-101, 103-108, 110-111 and 113-114 that depend therefrom, should be withdrawn.

Amended Independent Claims 52 and 109 Further Patentably Define Over Minsky

In addition to the reasons presented above, amended independent claims 52 and 109 further patentably define over Minsky. Claims 52 and 109 further require:

wherein the computer system is adapted to generate specification data from the image, the specification data representing a design of the marked base pattern and placement and location of the inspection marks

In contrast to independent claims 1 and 56, claims 52 and 109 thus specifically require a computer system adapted to generate specification data from the image. However, in remarks regarding claims 1, 52, 56 and 109, the Office Action states that “[t]he computer then determines the location of the inspection marks and mark lines from the photograph when it replicates the photograph in a digital image that can be sent to the expert.” These remarks appear directed to the language of claims 1 and 56 and ignores the requirement of claims 52 and 109 which clearly require that the computer system is adapted to generate specification data from the image. Thus, claims 52 and 109 differ from claims 1 and 56 by placing further restrictions on the claimed computer system, which restrictions are not met merely by replicating an image.

The Office Action elsewhere alleges that Minsky’s “recommended data set” described at, for example, col. 15, lines 5-57 correspond to the claimed “specification data.” However, this data set is manually entered into the computer system by an expert (see, e.g. col. 16 lines 16- 28 indicate that the expert will make estimates based on curvature for additional measurements; see also, col 15 lines 60- 3, which indicate that expert adds the measurement derived from information available from the front picture.) This data set is also separate from the image data, and so is not generated merely when the photograph is sent to the expert. Simply put, in Minsky’s system an expert generates the alleged specification from the image, whereas claims 52 and 109 require a specially adapted computer system to generate specification data. Accordingly, Minsky does not disclose a computer system that is adapted to generate[s] specification data from the image, as required by independent claims 52 and 109.

The Office Action also alleges that Minsky’s wide stripes (53) correspond to the claimed inspection marks. These stripes are only used to assist someone in affixing the tape measures to the body suit. The expert cares nothing about these wide stripes when entering data into the

computer system and their "placement and location" do not have any relation to Minsky's "recommended data set." Accordingly, Minsky's "recommended data set" entered into the system by the expert does not "represent[] . . . placement and location of the inspection marks," as further required by independent claims 52 and 109.

For these additional reasons, claims 52 and 109 further patentably define over Minsky, and the § 102 rejection of these claims, along with claims 53-54 and 110-111 that depend therefrom, should be withdrawn.

***Claim Rejections Under 35 U.S.C. § 103***

Claims 8, 9, 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minsky in view of U.S. Patent No. 5,768,135 to Park et al. ("Park"). For reasons set forth more fully below, this rejection is respectfully traversed.

Claim 8 and 9 depend from independent claim 1, and claims 63 and 64 depend from independent claim 56, both of which independent claims patentably define over Minsky for at least the reasons given above. The subject matter missing from independent claims 1 and 56 is not taught or suggested in Park either, and so the alleged combination of Minsky and Park would not have suggested the claimed inventions of 8, 9, 63 and 64 for at least this reason. Moreover, the markings in Park merely are used to distinguish one garment from the other, and not to indicate fit and design preferences of the customer, as required by the claims.

Accordingly, the § 103 rejection of the claims should be withdrawn.

***Allowable Subject Matter***

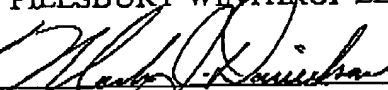
Applicant appreciate the Examiner's indication that claims 55 and 112 are allowed and that claims 13, 22-29, 31-38, 42, 45, 69, 78-85, 88-95, 99 and 102 are allowable. Applicant reserves the right to amend the claims later as suggested by the Office Action, if necessary.

**Conclusion**

If any issues remain which the Examiner feels may be resolved through a telephone interview, s/he is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
PILLSBURY WINTHROP LLP

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